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**STANDING COMMITTEE ON FINANCE  
(2017-18)**

**SIXTEENTH LOK SABHA**

**MINISTRY OF CORPORATE AFFAIRS**

*[Action taken by the Government on the recommendations contained in Forty-Fourth Report of the Standing Committee on Finance on 'Demands for Grants (2017-18)]*

**FIFTY-THIRD REPORT**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**December, 2017 / Agraḥayana, 1939 (Saka)**

# **FIFTY-THIRD REPORT**

## **STANDING COMMITTEE ON FINANCE**

### **(2017-2018)**

### **(SIXTEENTH LOK SABHA)**

## **MINISTRY OF CORPORATE AFFAIRS**

***[Action taken by the Government on the recommendations contained in Forty-Fourth Report of the Standing Committee on Finance on 'Demands for Grants (2017-18)]***

*Presented to Lok Sabha on 20 December, 2017*

*Laid in Rajya Sabha on 20 December, 2017*



**LOK SABHA SECRETARIAT  
NEW DELHI**

**December, 2017 /      Agraḥayana, 1939 (Saka)**

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Finance on 'Demands for Grants (2017-18)

## **COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2017-18**

**Dr. M. Veerappa Moily - Chairperson**

### **MEMBERS**

#### **LOK SABHA**

2. Kunwar Pushpendra Singh Chandel
3. Shri Bandaru Dattatreya
4. Shri Nishikant Dubey
5. Shri Venkatesh Babu T. G.
6. Shri P.C. Gaddigoudar
7. Shri C. Gopalakrishnan
8. Shri Shyama Charan Gupta
9. Shri Rattan Lal Kataria
10. Shri Chandrakant Khaire
11. Shri Bhartruhari Mahtab
12. Shri Prem Das Rai
13. Shri Rayapati Sambasiva Rao
14. Prof. Saugata Roy
15. Shri Rajiv Pratap Rudy
16. Shri Jyotiraditya M. Scindia
17. Shri Gopal Shetty
18. Dr. Kiritbhai P. Solanki
19. Dr. Kirit Sombaiya
20. Shri Dinesh Trivedi
21. Shri Shivkumar Udasi

#### **RAJYA SABHA**

22. Shri Naresh Agrawal
23. Shri Rajeev Chandrasekhar
24. Shri A. Navaneethakrishnan
25. Shri Mahesh Poddar
26. Dr. Mahendra Prasad
27. Shri C.M. Ramesh
28. Shri T.K. Rangarajan
29. Shri Ajay Sancheti
30. Shri Digvijaya Singh
31. Dr. Manmohan Singh

### **SECRETARIAT**

1. Smt. Abha Singh Yaduvanshi	-	Joint Secretary
2. Shri Rajesh Ranjan Kumar	-	Director
3. Shri Ramkumar Suryanarayanan	-	Additional Director
4. Ms. Melody Vungthiansiam	-	Committee Assistant

## **INTRODUCTION**

I, the Chairperson of the Standing Committee on Finance, having been authorized by the Committee, present this Fifty-third Report on action taken by Government on the Observations / Recommendations contained in the Forty-fourth Report of the Committee (Sixteenth Lok Sabha) on Demands for Grants (2017-18) of the Ministry of Corporate Affairs.

2. The Forty-fourth Report was presented to Lok Sabha / laid on the table of Rajya Sabha on 15 March, 2017. The Action Taken Notes on the Recommendations were received from the Government *vide* their communication dated 15 June, 2017.

3. The Committee considered and adopted this Report at their sitting held on 16 November, 2017.

4. An analysis of the action taken by the Government on the recommendations contained in the Forty-fourth Report of the Committee is given in the Appendix.

5. For facility of reference, the observations / recommendations of the Committee have been printed in bold in the body of the Report.

**NEW DELHI**  
**18 December, 2017**  
**27 Agrahayana, 1939 (Saka)**

**DR. M. VEERAPPA MOILY**  
**Chairperson**  
**Standing Committee on Finance**

## REPORT

### ***CHAPTER – I***

This Report of the Standing Committee on Finance deals with action taken by the Government on the recommendations/observations contained in their 44<sup>th</sup> Report (Sixteenth Lok Sabha) on Demands for Grants (2017-18) of the Ministry of Corporate Affairs which was presented to Lok Sabha / laid in Rajya Sabha on 15 March, 2017.

2. The Action Taken Notes have been received from the Government in respect of all the 09 recommendations contained in the Report. These have been analyzed and categorized as follows:

(i) Recommendations/Observations that have been accepted by the Government:

Recommendation Nos. 1,2,3,4,5,6,7,8 & 9

(Total 09)  
(Chapter- II)

(ii) Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies:

NIL

(Total NIL)  
(Chapter- III)

(iii) Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee:

NIL

(Total NIL)  
(Chapter -IV)

(iv) Recommendations/Observations in respect of which final replies by the Government are still awaited:

NIL

(Total - NIL)  
(Chapter- V)

3. The Committee desire that the replies to the observations/recommendations contained in Chapter-I may be furnished to them expeditiously.

4. The Committee will now deal with and comment upon the action taken by the Government on some of their recommendations.

#### **Recommendation (Serial No.4)**

5. The Committee in their 44th Report had noted that the number of cases pending with RoCs at the beginning of 2016 (01.01.2016) was 46,100. During the year 2016-17, 2516 fresh cases were filed, out of which only 1800 cases were disposed of leaving a total of 46,816 cases pending as on 30.11.2016. They were also constrained to note the dismal rate of disposal of cases year after year, even as fresh cases are accumulating at a rapid pace, thereby adding to the pendency of large number of earlier cases. The Committee were of the view that there should be enhanced capacity building at all levels in RoC offices nationwide along with upgradation of IT infrastructure in order to handle the huge workload. The Committee recommended that periodic review meetings should be held with sharing of information in order to ensure efficient and effective functioning of the RoCs. The Committee had expected the Ministry to be more proactive in pursuing with the RoCs for speedier disposal of cases.

6. In their action taken reply the Ministry of Corporate Affairs have submitted as follows:-

"The MCA 21 V2 version provides for prosecution module which has been implemented from this year, to be filled by each Office of RoC giving details of cases, their names, violations of Sections of Companies Act which would reflect upto date status of prosecution, name of the nodal offices and the next date of hearing so that prosecutions could be monitored effectively. Further, regular interaction with RoCs and RDs through monthly/quarterly meeting for speedier disposal of cases has been undertaken by the Ministry. Entry of cases in Legal Information Management and Briefing System (LIMBS) are made whenever the Ministry is party. Besides instructions

for reducing the litigations have been circulated as per the advice of Ministry of Law. For adherence of these instructions, regular meetings are held with RDs/RoCs."

**7. The Committee note that the MCA 21 V2 version has been implemented from this year for effective monitoring of prosecution of cases. The Committee also note that periodic review meetings are held with RoCs and RDs. The Ministry are however silent on the issue of capacity building in RoCs. The Committee recommend that the upgradation of IT infrastructure with MCA 21 V2 version should be accompanied by proper training and capacity building in the RoCs/RDs so that such technology may be fully utilised.**

#### **Recommendation (Serial No.5)**

8. The Committee noted that the Ministry had set up a host of new institutions during 2016 viz. the National Company Law Tribunal (NCLT), National Company Law Appellate Tribunal (NCLAT), the Special Courts, the Investor Education & Protection Fund (IEPF) Authority and Insolvency and Bankruptcy Board of India (IBBI) in pursuance of the Companies Act, 2013 and the Insolvency and Bankruptcy Code, 2016. The Committee had expected that the setting up of such pivotal institutions would be accompanied with adequate support from the Ministry in terms of infrastructure and human resource capital so that the Institutions function with their full potential and also objectives of setting up such institutions are achieved. The Committee desired that these institutions should be made functional effectively as per the laid down objectives and also share relevant information to each other or put the information in public domain, as far as possible, to make the system transparent and promote ease of doing business.

9. In their action taken reply the Ministry of Corporate Affairs have submitted as follows:-

"The benches of NCLT are being established in a phased manner taking into account the availability of physical infrastructure, members and other supporting staff. NCLAT is having its headquarters at New Delhi. At present the NCLT has its benches at 10 locations viz New Delhi, Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai. Adequate infrastructure has been provided at all these locations. Incremental requirement is being taken care of as per requests received from these bodies from time to time.

This Ministry has approved a proposal from NIC for implementing e-courts and other e-governance solution in NCLT and NCLAT.

To operationalize these bodies, Central Government had approved creation of 209 and 37 posts of various levels for NCLT and NCLAT respectively. As a part of consultative process, required by Section 418 of Companies Act, 2013, NCLT and NCLAT have suggested certain changes in these posts. These are under consideration of the Government. As an interim arrangement, these bodies have been provided with staff on deputation and contract basis. Further, to assist these bodies the Ministry has deployed some of its officers and staff to NCLT and NCLAT."

**10. The Committee note that in order to operationalize NCLT and NCLAT, the Government had approved creation of various posts and that these bodies have been provided with staff on deputation and contract basis as an interim arrangement. However, the Ministry have chosen to remain silent on the issue of sharing information with each other and or putting the information in public domain. The Committee re-emphasise their recommendation in the matter and desire the same be expedited.**

#### **Recommendation (Serial No. 6)**

11. The Committee noted that Serious Fraud Investigation Office (SFIO) was set up as a multi-disciplinary investigating agency and has been given statutory status. The Ministry had informed that out of 567 cases assigned to SFIO, 275 cases have been completed and 292 cases are still pending with SFIO. The Committee found that the

number of cases assigned to SFIO had increased especially in the last three years. However, the Committee found that despite finalisation of the Recruitment Rules, there were still huge vacancies within the organisation which crippled its capability to swiftly dispose off cases. The Ministry should make all out efforts to incentivise the SFIO posts so as to cover the risks involved in investigating the fraudulent cases. Even after deployment of early warning system, market research intelligence and other such technological tools at considerable cost, the Committee found that investigations in cases referred to SFIO is prolonged and the outcome weak, as most of the cases investigated failed at the prosecution stage. The early warning system was introduced, shelved and re-introduced with version 2 of MCA 21 and in the midst of such experiments, a large number of corporate frauds, willful defaulters and cyber crimes went undetected. The Committee had therefore recommended that the SFIO should fill its vacancies with adequate permanent cadre and strengthen both its investigative and prosecution arms by developing a fool-proof fraud detection mechanism. The Committee desired that SFIO should also significantly upgrade its present performance level with a view to fulfilling its statutory mandate. For this purpose, the Committee had recommended greater autonomy for SFIO so that it acquires sufficient credibility and stature as an investigative body.

12. In their action taken reply the Ministry of Corporate Affairs have submitted as follows:-

"Against 133 sanctioned posts in SFIO, 62 officers and officials are presently in position. The recruitment rules of 28 categories of posts in SFIO have been amended. To establish adequate permanency in the cadre of organization, mode of recruitment at entry levels for junior posts have been changed to direct recruitment from deputation mode. Hence, over a period of time SFIO would have its own cadre and all senior level posts would be filled up through SFIO's own cadre on the basis of promotion instead of filling the post on deputation which remains vacant after the deputationist completes

tenure and is reverted to the parent cadre. This step would ensure permanent solution to filling up large number of vacant posts in due course of time. The present incumbency status is as under:-

Recruitment Mode	Sanctioned Posts	In Position	Vacancy
Encadred/Central Staffing Scheme/CSS	16	11	05
Direct Recruitment (DR)	42	24*	18
Deputation/Promotion	75	27	48**

\*includes 12 deputationist

\*\*Break-up of posts (Investigation-11, Financial Transaction-02, Capital Market-04, Forensic Audit-07, Banking-04, Corporate Law-04, Law-01, Prosecution-05, Others-10)

07 more direct recruit Assistant Directors will be joining SFIO shortly. Moreover, recommendations for selection of 13 officers (07 DR + 6 Deputationist) by UPSC are expected in the month of June, 2017. The direct recruits will replace 12 deputationists. Besides this, applications have been invited to fill up 42 vacant posts of deputation (Including Short Term Contract) upto 16.06.2017. By the end of current year, all vacant posts are likely to be filled up. SFIO has separately invited applications for engaging experts in various fields as consultants for expeditious action in investigation/prosecution under Rule 3 and 4(d) of the Companies (Inspection, Investigation & Inquiry) Rules, 2014. Further, advocates are being taken as experts/consultants to strengthen the prosecution wing of the SFIO. Besides this, regular training of SFIO officers is being organized at IICA, Manesar to upgrade their capacity and skills. As regards the greater autonomy to SFIO, consequent upon the introduction of the Companies Act, 2013, the SFIO has become Statutory organization by virtue of Section 212 of the Companies Act, 2013 and it is discharging its functions as laid down under the Companies Act, 2013 ensuring complete and absolute working autonomy.

Ministry has taken up the matter relating to incentivizing the posts of SFIO with the Ministry of Finance, Department of Expenditure by recommending incentive allowances to officers, taken on deputation.

Detailed Project Report to establish Early Warning System has been assessed by the Delegated Investment Board under the Chairmanship of Secretary, Corporate Affairs at the meeting held on 06.06.2017. Request for Proposal is being issued shortly."

**13. The Committee note that against 133 sanctioned posts in SFIO, 62 officials are in place and 71 posts remain vacant. The Committee also note that the recruitment rules of 28 categories of posts in SFIO have been amended to establish adequate permanency in the cadre. While noting the efforts of SFIO in trying to create a permanent cadre, the Committee are of the view that the process of creating a permanent cadre under SFIO has been delayed for too long**

considering that the SFIO was set up way back in 2003 and the Committee had time and again recommended for the creation of a permanent cadre. The Committee, therefore, reiterate that the SFIO should fill its vacancies with adequate permanent cadre and strengthen both its investigative and prosecution arms by developing a foolproof fraud detection mechanism.

## **CHAPTER II**

### **RECOMMENDATIONS / OBSERVATIONS THAT HAVE BEEN ACCEPTED BY THE GOVERNMENT**

#### **Recommendation (Sl. No. 1)**

The Committee note that from Financial Year 2017-18, classification of Government Expenditure as Plan and Non-Plan has been done away with and that the Government Expenditure shall be classified under “Capital” and “Revenue” Heads. While analyzing the Demands for Grants of the Ministry of Corporate Affairs for 2016-17, the Committee observed a trend of unrealistic projection of funds coupled with an inability to absorb the funds allocated. The Committee in their earlier reports had repeatedly urged the Ministry to make realistic projections commensurate to their ability to absorb the funds allocated. However, the Ministry have informed that out of the revised allocation of Rs. 384.57 crore for FY 2016-17, the actual expenditure of the Ministry as on 06.02.2017 was Rs. 296.31 crore i.e. just 77% of RE. The Committee find that the budgetary allocation for 2017-18 has been enhanced to Rs. 448.04 crore despite their proven inability to fully absorb the funds allocated in 2016-17 that too in critical areas of their functioning like Corporate Data Management. The Committee, therefore, recommend that the Ministry with their mandate and responsibility of overseeing the functioning of the Corporate Sector in India should strive towards a system for more efficient utilization of funds and also make an accurate and realistic projection of requirement of funds in future. Besides this the Ministry should focus on intensive training and capacity building for expeditious and rational scrutiny of mounting cases.

#### **Reply of the Government**

The actual expenditure in Financial Year 2016-17 as on 31.03.2017 *vis-a-vis* BE and RE is given below:

Section	Budget Estimates (BE) (2016-17)	Revised Estimates (RE) (2016-17)	Actual Expenditure (AE) upto 31.03.2017	Percentage of actual w.r.t. BE	Percentage of actual w.r.t. RE
Revenue	314.43	359.94	343.02	109.09%	95.30%
Capital	30.00	24.63	24.32	81.06%	98.74%
Total	344.43	384.57	367.34	106.65%	95.52%

Thus, the overall utilization during 2016-17 was Rs. 367.34 crore out of the Revised Allocation of 384.57 crore, which is 106.65% of allocation in BE and 95.52% of allocation in RE 2016-17. As regards the allocation in BE 2017-18, the allocation of Rs. 448.04 crore has been obtained taking into account the likely full-fledged operationalization of newly created bodies - National Company Law Tribunal(NCLT), National Company Law Appellate Tribunal(NCLAT) , Insolvency and Bankruptcy Board of India (IBBI), Investor Education and Protection Fund Authority (IEPFA) during the FY 2017-18. The Ministry set-up NCLT, NCLAT, IBBI and IEPFA in 2016-17, which have started functioning. National Financial Reporting Authority (NFRA) is likely to be created in 2017-18. Therefore, to take care of expansion of the aforementioned bodies in 2017-18, this Ministry has obtained enhanced allocation in FY 2017-18 over FY 2016-17.

As regards the observation about focus on intensive training and capacity building for expeditious and rational scrutiny of cases, the subject matter is dealt in reply to recommendation no. 4.

***[Ministry of Corporate Affairs O.M. No. G-20018/13/2017-BGT dated 15.06.2017]***

#### **Recommendation Serial No.2**

The Committee note that the Indian Institute of Corporate Affairs (IICA) was established in 2008 as a think tank, capacity building and service delivery Institution. The Committee observe that the allocation for the Institute has gradually been reduced from Rs. 34 crore in 2013-14 to Rs. 24 crore in 2014-15, Rs. 19 crore in 2015-16, Rs. 10 crore in 2016-17 and Rs. 8 crore in 2017-18 with the aim of making it self-sustainable. The revenue generated by the Institute has however been gradually increasing from Rs. 0.8 crore in 2013-14 to Rs. 4.93 crore in 2014-15, Rs. 7.50 crore in 2015-16, Rs. 7.50 crore till 31 December 2016 for the financial year 2016-17. The Committee in their earlier Reports had expressed their apprehensions about the IICA becoming self-sustainable by the year 2016-17. The Ministry have however now informed that the Institute hopes to become self-sustainable by the end of financial year 2019-20 and that a broad based plan for self-sustenance has been drawn up. The Committee urge the Institute to explore all areas of revenue-driven activities over and

above the capacity building and research activities already undertaken and ensure self-sustenance within the targeted timeline. The Institute can thus provide diploma/certificate courses for students/corporate executives and also Government officials, without confining itself to in-house training programmes only. For this purpose they should be equipped with a strong faculty and their programmes should be popularised. However, adequate budgetary support to Institute need to be continued till the Institute gains capability of sufficiently generating revenue from their own resources and become self sustaining. As the IICA is meant to be one of the premier institutions of the country imparting knowledge/ expertise to professionals from both Government and corporate sector, especially on various aspects of Corporate Governance, the Committee would expect that the capacity of the Institute be fully utilized.

### **Reply of the Government**

Since its inception, the Institute has been working towards fulfilling its mandate and to become an important centre for dealing with issues relating to Corporate Governance, Corporate Social Responsibility (CSR), independent directors, entrepreneurship, small and medium enterprises, financial administration, investor awareness, up-gradation of skills in the corporate sector and other such matters. With the experience gained, the Institute is gaining recognition and has started generating revenue.

In the 44<sup>th</sup> Report of the Standing Committee on Finance Demands for Grants (2017-18) of the Ministry under Recommendation No. 2, it is stated that for the financial year 2016-17 the Institute has reported a revenue generation of Rs. 8.00 crore (approximately).

In order to make IICA self-sustainable during the next three years, the Institute has started taking new initiatives for organizing larger projects with both Private and Public Sector organizations. The Institute has started organizing colloquiums for Members of National Company Law Tribunal (NCLT)/ National Company Law Appellate Tribunal (NCLAT) in the field of Company Law as well as emerging fields of Insolvency and Bankruptcy Code. It is also planning/conducting capacity building programs in the fields of Corporate Data Management in Government Organizations, Organizing training

of staff of NCLT/NCLAT, organizing skill up-gradation and orientation programmes as well as meeting the training requirements of various Ministries and Departments.

The Institute is also making efforts to increase the number of participants in long term certificate courses in the area of CSR, Corporate Law, Competition Law and Corporate Governance besides launching more industry oriented long term courses. In addition, the Institute has started undertaking projects from Ministry of Science and Technology, Ministry of Micro, Small and Medium Enterprises, Ministry of Corporate Affairs and its affiliate offices like Insolvency and Bankruptcy Board of India (IBBI), NCLT/NCLAT, Investors Education and Protection Fund (IEPF) Authority, Serious Fraud Investigation Office (SFIO), Competition Commission of India (CCI) etc. The Institute has also started getting company sponsored programmes/ projects like CSR implementation for Agriculture Insurance Company of India Limited (AICL), UCO Bank, United Bank, National Thermal Power Corporation Limited (NTPC) etc.

The Institute is exploring the opportunities of organizing more training programs/workshops/seminars etc. of various organisations of this Ministry by taking up their required programmes more aggressively which would result in increasing the earning/revenue of the IICA. This would also result in optimum utilisation of Institute's available infrastructure and its faculty.

***[Ministry of Corporate Affairs O.M. No. G-20018/13/2017-BGT dated 15.06.2017]***

### **Recommendation Serial No.3**

The Committee note that the Investor Education Protection Fund (IEPF) Authority, which was constituted for refund of unclaimed amounts to investors and promotion of investors education and awareness has been made functional from 07.09.2016. They also note that 188 applications for refund have been received out of which 17 are duplicate claims, 162 applications are at various stages of processing and 9 refund claims have been settled. The Committee hope that the process of refund of unclaimed dividends, matured deposits, debentures etc. need to be meticulously and expeditiously carried out, as the number of applications is expected to increase manifold in coming years. Regarding promotion of investors' awareness, the, Committee

recommend that the horizon of awareness campaigns may be broadened in such a way that it must reach gullible investors of the remotest areas also. The Committee expect that this newly constituted IEPF Authority would strive to fulfil their mandate of safeguarding investors' interest and also making them aware about their rights as investors as well as the pros and cons of investing in different instruments / schemes on war footing so as to facilitate ease of doing business. The Committee further desire that awareness campaign should be done upto panchayat level and the local MP/MLAs should be involved in creating awareness. Various telecom service providers may also be engaged in this regard for bulk messaging.

#### **Reply of the Government**

All efforts are being ensured for efficient and expeditious processing of refund claims in the IEPF Authority. To create awareness among the general public, advertisements have been published in leading newspapers across the country elaborating on the guidelines for filing the refund claim. Also, instructions to the companies for processing the claims verification have been advertised so as to expedite the process at their end.

Investor Education and Protection Fund Authority shall be conducting all the awareness activities as done earlier by the Ministry besides exploring newer methods to disseminate the precautionary guidelines to investors against unauthorized deposit taking activities. Investor's Awareness Programme (IAP) in rural areas are conducted through Common Services Centre governance India Ltd (CSC). An advisory to all the stakeholders has already been issued to invite local MP/MLAs/other public representatives in these IAPs. Further, facility for sending text messages to BSNL subscribers is being explored as a pilot project. Subsequent to that proposals from other telecom companies will be invited for sending informative text messages to their subscribers.

***[Ministry of Corporate Affairs O.M. No. G-20018/13/2017-BGT dated 15.06.2017]***

#### **Recommendation Serial No. 4**

The Committee note that the number of cases pending with ROCs at the beginning of 2016 (01.01.2016) was 46,100. During the year 2016-17, 2516 fresh cases

were filed, out of which only 1800 cases were disposed of leaving a total of 46,816 cases pending as on 30.11.2016. They are also constrained to note the dismal rate of disposal of cases year after year, even as fresh cases are accumulating at a rapid pace, thereby adding to the pendency of large number of earlier cases. The Committee are of the view that there should be enhanced capacity building at all levels in RoC offices nationwide alongwith upgradation of IT infrastructure in order to handle the huge workload. The Committee recommend that periodic review meetings should be held with sharing of information in order to ensure efficient and effective functioning of the RoCs. The Committee would expect the Ministry to be more proactive in pursing with the RoCs for speedier disposal of cases.

#### **Reply of the Government**

The MCA 21 V2 version provides for prosecution module which has been implemented from this year, to be filled by each Office of RoC giving details of cases, their names, violations of Sections of Companies Act which would reflect upto date status of prosecution, name of the nodal offices and the next date of hearing so that prosecutions could be monitored effectively. Further, regular interaction with RoCs and RDs through monthly/quarterly meeting for speedier disposal of cases has been undertaken by the Ministry. Entry of cases in Legal Information Management and Briefing System (LIMBS) are made whenever the Ministry is party. Besides instructions for reducing the litigations have been circulated as per the advice of Ministry of Law. For adherence of these instructions, regular meetings are held with RDs/RoCs.

**[Ministry of Corporate Affairs O.M. No. G-20018/13/2017-BGT dated 15.06.2017]**

#### **Comments of the Committee**

(Please see Para No. 7 of Chapter I)

#### **Recommendation Sl. No. 5**

The Committee note that the Ministry has set up a host of new institutions during 2016 viz. the National Company Law Tribunal (NCLT), National Company Law Appellate Tribunal (NCLAT), the Special Courts, the Investor Education & Protection Fund (IEPF) Authority and Insolvency and Bankruptcy Board of India (IBBI) in pursuance of the Companies Act, 2013 and the Insolvency and Bankruptcy Code, 2016.

The Committee expect that the setting up of such pivotal institutions will be accompanied with adequate support from the Ministry in terms of infrastructure and human resource capital so that the Institutions function with their full potential and also objectives of setting up such institutions are achieved. The Committee desire that these institutions should be made functional effectively as per the laid down objectives and also share relevant information to each other or put the information in public domain, as far as possible, to make the system transparent and promote ease of doing business.

**Reply of the Government:**

The benches of NCLT are being established in a phased manner taking into account the availability of physical infrastructure, members and other supporting staff. NCLAT is having its headquarters at New Delhi. At present the NCLT has its benches at 10 locations viz New Delhi, Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai. Adequate infrastructure has been provided at all these locations. Incremental requirement is being taken care of as per requests received from these bodies from time to time.

This Ministry has approved a proposal from NIC for implementing e-courts and other e-governance solution in NCLT and NCLAT.

To operationalize these bodies, Central Government had approved creation of 209 and 37 posts of various levels for NCLT and NCLAT respectively. As a part of consultative process, required by Section 418 of Companies Act, 2013, NCLT and NCLAT have suggested certain changes in these posts. These are under consideration of the Government. As an interim arrangement, these bodies have been provided with staff on deputation and contract basis. Further, to assist these bodies the Ministry has deployed some of its officers and staff to NCLT and NCLAT.

***[Ministry of Corporate Affairs O.M. No. G-20018/13/2017-BGT dated 15.06.2017]***

**Comments of the Committee**

(Please see Para No. 10 of Chapter I)

### **Recommendation SI. No. 6**

The Committee note that Serious Fraud Investigation Office (SFIO) was set up as a multi-disciplinary investigating agency and has been given statutory status. The Ministry had informed that out of 567 cases assigned to SFIO, 275 cases have been completed and 292 cases are still pending with SFIO. The Committee find that the number of cases assigned to SFIO have increased especially in the last three years. However, the Committee find that despite finalisation of the Recruitment Rules, there are still huge vacancies within the organisation which cripples its capability to swiftly dispose off cases. The Ministry should make all out efforts to incentivise the SFIO posts so as to cover the risks involved in investigating the fraudulent cases. Even after deployment of early warning system, market research intelligence and other such technological tools at considerable cost, the Committee find that investigations in cases referred to SFIO is prolonged and the outcome weak, as most of the cases investigated failed at the prosecution stage. The early warning system was introduced, shelved and re-introduced with version 2 of MCA 21 and in the midst of such experiments, a large number of corporate frauds, willful defaulters and cyber crimes went undetected. The Committee would therefore recommend that the SFIO should fill its vacancies with adequate permanent cadre and strengthen both its investigative and prosecution arms by developing a fool-proof fraud detection mechanism. The Committee desire that SFIO should also significantly upgrade its present performance level with a view to fulfilling its statutory mandate. For this purpose, the Committee would recommend greater autonomy for SFIO so that it acquires sufficient credibility and stature as an investigative body.

#### **Reply of the Government:**

Against 133 sanctioned posts in SFIO, 62 officers and officials are presently in position. The recruitment rules of 28 categories of posts in SFIO have been amended. To establish adequate permanency in the cadre of organization, mode of recruitment at entry levels for junior posts have been changed to direct recruitment from deputation mode. Hence, over a period of time SFIO would have its own cadre and all senior level posts would be filled up through SFIO's own cadre on the basis of promotion instead of

filling the post on deputation which remains vacant after the deputationist completes tenure and is reverted to the parent cadre. This step would ensure permanent solution to filling up large number of vacant posts in due course of time. The present incumbency status is as under:-

Recruitment Mode	Sanctioned Posts	In Position	Vacancy
Encadred/ Central Staffing Scheme/CSS	16	11	05
Direct Recruitment (DR)	42	24*	18
Deputation/Promotion	75	27	48**

\*includes 12 deputationist

\*\*Break-up of posts (Investigation-11, Financial Transaction-02, Capital Market-04, Forensic Audit-07, Banking-04, Corporate Law-04, Law-01, Prosecution-05, Others-10)

07 more direct recruit Assistant Directors will be joining SFIO shortly. Moreover, recommendations for selection of 13 officers (07 DR + 6 Deputationist) by UPSC are expected in the month of June, 2017. The direct recruits will replace 12 deputationists. Besides this, applications have been invited to fill up 42 vacant posts of deputation (Including Short Term Contract) upto 16.06.2017. By the end of current year, all vacant posts are likely to be filled up. SFIO has separately invited applications for engaging experts in various fields as consultants for expeditious action in investigation/prosecution under Rule 3 and 4(d) of the Companies (Inspection, Investigation & Inquiry) Rules, 2014. Further, advocates are being taken as experts/consultants to strengthen the prosecution wing of the SFIO. Besides this, regular training of SFIO officers is being organized at IICA, Manesar to upgrade their capacity and skills. As regards the greater autonomy to SFIO, consequent upon the introduction of the Companies Act, 2013, the SFIO has become Statutory organization by virtue of Section 212 of the Companies Act, 2013 and it is discharging its functions as laid down under the Companies Act, 2013 ensuring complete and absolute working autonomy.

Ministry has taken up the matter relating to incentivizing the posts of SFIO with the Ministry of Finance, Department of Expenditure by recommending incentive allowances to officers, taken on deputation.

Detailed Project Report to establish Early Warning System has been assessed by the Delegated Investment Board under the Chairmanship of Secretary, Corporate Affairs at the meeting held on 06.06.2017. Request for Proposal is being issued shortly.

**[Ministry of Corporate Affairs O.M. No. G-20018/13/2017-BGT dated 15.06.2017]**

### **Comments of the Committee**

(Please see Para No. 13 of Chapter I)

### **Recommendation Sl. No. 7**

The Committee note that the Competition Commission of India (CCI) was set up in 2009 to promote and sustain competition in markets and prevent practices having adverse effect on competition. The Commission since its existence has received 854 cases related to anti-competition conduct, out of which it has decided 633 cases. Out of the remaining 221 cases, the Ministry have informed that 134 cases are pending with the DG, and 87 cases are under consideration by the Commission. 156 cases have been pending for more than a year. Considering its huge workload, the Committee find that the Commission is extremely under-staffed with only 114 officers in position as against the sanctioned strength of 197 posts. The reason for such vacancies has been attributed to deputationists, whose tenures have been completed. With the huge pendency of cases and the rising cases of anti-competitive practices, the Committee desire that the Ministry should equip the Commission with adequate skilled and efficient permanent workforce and move away from the practice of hiring deputationists, so that there is continuity and more commitment and the hiring process itself does not result in loss of precious time and also provide further resources without curtailing the allocations that could be used in more productive ways enhancing the professional performance of the Commission.

### **Reply of the Government**

Against the sanctioned strength of 197 posts for the Commission (CCI) and the office of the Director General (DG, CCI), 118 officers are in position as on 03.04.2017.

In pursuance of the recent selections made by CCI, some officers have joined the Commission on deputation basis. Joining of four more officers [against 1 post each

of Adviser (Eco), Director (Law), Joint Director (Eco) & Deputy Director (CS)] is expected shortly. In addition, selection of two posts of Advisers is likely to be made shortly. Selections in respect of the posts advertised on 30.09.2016 for filling up of vacant posts of ADG, Joint DG, DDG, DDG (CS) and Assistant DG (CS) against which 09 candidates have been recommended for appointment in DG's office on deputation basis. Moreover, direct recruitment process to fill up 31 posts in CCI is also to be started soon. Therefore, the current staff position is expected to improve in the coming months.

CCI borrows experienced personnel from Central Government Departments/bodies on deputation basis in order to carry out its essential functions till it gets permanent workforce of its own. The existing Recruitment Rules (RRs) of CCI and those of DG's office are being reviewed to address certain issues. One of the aspects being considered in this regard is to make a provision for direct recruitment and promotion in respect of the posts sanctioned for DG's office in order to have a permanent workforce.

***[Ministry of Corporate Affairs O.M. No. G-20018/13/2017-BGT dated 15.06.2017]***

### **Recommendation SI. No. 8**

The Committee note that Section 135 of the Companies Act, 2013 requires every company above the specified thresholds of turnover to spend at least two percent of profits earned during three preceding financial years on Corporate Social Responsibility (CSR). India is the first country in the world to make the CSR scheme mandatory by law. However, the Committee find that the figures made available regarding expenditure on CSR are quite disturbing. For instance, 84 companies out of 226 PSUs and 411 companies out of 7108 private sector companies, have reported no expenditure on CSR in an assessment made during 2014-15. Moreover, Companies that have reported CSR have not been spending it as per the guidelines. The Committee are appalled to note that such a laudable scheme aimed at releasing much needed funds for social development is not being complied with by more than 50% of companies. The Committee have been informed that show cause notice has been issued to 1018 companies and certain companies are being identified for penal action which would begin soon. The Committee are not at all satisfied with the casual approach adopted by

the Ministry in making the non-compliant companies conform. The Committee would therefore like the Ministry to put in place a stricter monitoring and evaluation mechanism to ensure CSR compliance by all Companies, as obligated under the Companies Act, 2013. The Ministry should also ensure stringent compliance in adhering to spending of CSR funds in areas and avenues as prescribed in the laid down guidelines and simplify the spending guidelines, if need be. The Committee would recommend in this regard that CSR expenditure of at least 50% should be made in the local area where the manufacturing or mining operations take place; another 25% in the most backward regions including hilly areas and another 10% in North-East and Jammu and Kashmir. Considering the not-so-encouraging compliance record, the Committee may at the next opportunity consider revisiting the CSR provisions in the Companies Act with a view to making it statutorily mandatory with penal consequences for non-compliance.

### **Reply of the Government**

The recommendations made in the 21st Report of the Parliamentary Standing Committee on Finance that annual statutory disclosures on CSR required to be made by the companies under the Act would be a sufficient check on non-compliance, has guided the provisions in the statute. Section 135(4) of the Companies Act 2013 mandates every company qualifying under Section 135(1) to disclose contents of its CSR Policy in the Board's Report. Rule 9 of the Companies (Corporate Social Responsibility Policy), Rules, 2014 prescribes the format in which such disclosure is to be made. Further, as per second proviso to Section 135 of the Act, the companies have to disclose/specify the reasons for not spending /underspending their CSR expenditure in the Board's Report.

The Ministry monitors the compliance of the mandatory disclosures in the Board's Report under the said provisions. Registrar of Companies have been assigned the task of initiating action against companies for not adhering to the provisions of Section 135 read with section 134(3)(o) of the Companies Act and CSR Policy Rules 2014 i.e. non-disclosure on CSR in the Board's report by CSR eligible companies and absence of reason for not spending / underspending amount. 1018 show cause notices have been issued to the defaulting companies out of which, permission for initiating

penal action under section 134(8) of the Act has been granted in respect of 56 companies till date. Workshops for sensitization on the provisions of CSR including penal action to be taken, have been conducted for officers of Regional Director /Registrar of Companies offices as well as for professionals.

First proviso to section 135 (5) of the Act requires that preference be given to areas in or around the location of the company for earmarking amounts for CSR activities. There is, however no bar to undertake CSR activity in any part of the country. It is within the power of the Board or the CSR Committee of the Company to allocate CSR fund for CSR activities in 'Local area' and 'Other areas' as part of their CSR policy. Government has no power to direct the companies to earmark **CSR fund for any particular region/area, society or activity.**

*[Ministry of Corporate Affairs O.M. No. G-20018/13/2017-BGT dated 15.06.2017]*

#### **Recommendation Serial No.9**

The Committee desire that the institution of Independent Directors should be further strengthened. Towards this end, they should be adequately equipped with training by way of refresher courses, orientation workshops etc. The guidelines for appointment of Independent Directors should also be modified keeping in view the fact that the complexion of Companies is transforming from family-managed to professionally-run corporate bodies.

#### **Reply of the Government**

The Companies Act, 2013 [CA-13] provides for appointment of Independent Directors (IDs). Sections 149 and 150 of the CA-13 and the Rules made thereunder as well as Schedule IV to the said Act contain the provisions with reference to Independent Directors. These provisions, *inter-alia*, provide for the attributes, qualifications, disqualifications, liability (including exemption from liability) and role/duties of IDs. These provisions on IDs under the CA-13 have been brought into force w.e.f. 1<sup>st</sup> April, 2014.

Stakeholders had expressed certain concerns with regard to manner of appointment of IDs, tenure of IDs, provisions of Schedule IV and transitional provisions

etc., which were addressed through amendments in the Rules and clarificatory circulars. Keeping in view the suggestions made by stakeholders and recommendations of the Companies Law Committee (CLC) including with regard to strengthening the framework for IDs, it has been proposed [through the Companies (Amendment) Bill, 2016 – pending in the Lok Sabha] to modify the restrictions with reference to pecuniary relationship and certain other disqualifications for IDs provided in section 149 to make it more relevant and practical. It is also proposed to amend section 160 of the CA-13 to provide that the requirement of deposit of rupees one lakh with respect to nomination of directors shall not be applicable in case of appointment of independent directors. This change would address the concern expressed by stakeholders/CLC on this matter. The Companies (Amendment) Bill, 2016, was introduced in the Lok Sabha in March, 2016 and was referred to the Standing Committee on Finance. The Standing Committee submitted its report in the Parliament in December, 2016. The Government has examined the report of the Standing Committee and accepted most of its recommendations. The Companies (Amendment) Bill, 2016 and the official amendments proposed therein to implement recommendations of the Standing Committee is likely to be considered and passed in the Parliament in the next Parliament Session.

MCA, Securities and Exchange Board of India (SEBI) as well as other agencies like Professional Institutes/ Industry Chambers/Indian Institute of Corporate Affairs (IICA) and various private bodies/organizations organize seminars/workshops and training programs targeted at persons appointed/to be appointed as IDs in companies, with a view to enable them, to understand their role and provide independent judgment and decision making on the company boards.

***[Ministry of Corporate Affairs O.M. No. G-20018/13/2017-BGT dated 15.06.2017]***

### **CHAPTER - III**

**RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT  
DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLIES**

**NIL**

## **CHAPTER - IV**

### **RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE**

**NIL**

## **CHAPTER - V**

**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL  
REPLIES BY THE GOVERNMENT ARE STILL AWAITED**

**NIL**

**NEW DELHI  
18 December, 2017  
27 Agrahayana, 1939 (Saka)**

**DR. M. VEERAPPA MOILY  
Chairperson  
Standing Committee on Finance**

**Minutes of the Fourth sitting of the Standing Committee on Finance (2017-18)**  
**The Committee sat on Thursday, the 16 November, 2017 from 1500 hrs. to 1800**  
**hrs. in Committee Room 'D', Parliament House Annex, New Delhi.**

**PRESENT**

**Dr. M. Veerappa Moily - Chairperson**

**LOK SABHA**

2. Shri Kunwar Pushpendra Singh Chandel
3. Shri Bandaru Dattatreya
4. Shri Nishikant Dubey
5. Shri Venkatesh Babu T.G.
6. Shri P.C. Gaddigoudar
7. Shri Shyama Charan Gupta
8. Shri Rattan Lal Kataria
9. Shri Chandrakant Khaire
10. Shri Bhartruhari Mahtab
11. Shri Prem Das Rai
12. Prof. Saugata Roy
13. Shri Rajiv Pratap Rudy
14. Shri Gopal Shetty
15. Shri Kirit Somaiya
16. Shri Dinesh Trivedi
17. Shri Shivkumar Udasi

**RAJYA SABHA**

18. Shri A. Nvaneethakrishnan
19. Dr. Mahendra Prasad
20. Shri Ajay Sancheti
21. Dr. Manmohan Singh

**SECRETARIAT**

1. Smt. Abha Singh Yaduvanshi	-	Joint Secretary
2. Shri Rajesh Ranjan Kumar	-	Director
2. Shri Ramkumar Suryanarayanan	-	Additional Director
3. Shri Kulmohan Singh Arora	-	Deputy Secretary

**WITNESSES**

2.	XX	XX	XX	XX	XX	XX
	XX	XX	XX	XX	XX	XX.
3.	XX	XX	XX	XX	XX	XX
	XX	XX	XX	XX	XX	XX.

(The witnesses then withdrew)

4. Thereafter, the Committee took up the following draft reports for consideration and adoption:

- (i) Draft Report on 'Review of NSSO and CSO and Streamlining of Statistics Collection Machinery in the Country, including Management Information System for Project Monitoring / Appraisal' of the Ministry of Statistics and Programme Implementation.
- (ii) Draft Report on Action Taken by the Government on the Recommendations contained in the 44<sup>th</sup> Report on Demands For Grants (2017-18) of the Ministry of Corporate Affairs.
- (iii) Draft Report on Action Taken by the Government on the Recommendations contained in the 45<sup>th</sup> Report on Demands For Grants (2017-18) of the Ministry of Statistics and Programme Implementation.
- (iv) Draft Report on Action Taken by the Government on the Recommendations contained in the 46<sup>th</sup> Report on Demands For Grants (2017-18) of the Ministry of Finance (Departments of Economics Affairs, Expenditure, Financial Services and Investment and Public Asset Management).
- (v) Draft Report on Action Taken by the Government on the Recommendations contained in the 47<sup>th</sup> Report on Demands For Grants (2017-18) of the Ministry of Finance (Department of Revenue).
- (vi) Draft Report on Action Taken by the Government on the Recommendations contained in the 48<sup>st</sup> Report on Demands For Grants (2017-18) of the Ministry of Planning.

After some deliberations, the Committee adopted the above draft Reports with minor modifications and authorised the Chairperson to finalise them and present these Reports to Parliament.

A verbatim record of the proceedings has been kept

The Committee then adjourned.

## APPENDIX

(Vide Para 4 of the Introduction)

### ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE FORTY FOURTH REPORT OF THE STANDING COMMITTEE ON FINANCE (SIXTEENTH LOK SABHA) ON DEMANDS FOR GRANTS (2017-18) OF THE MINISTRY OF CORPORATE AFFAIRS

		Total	% of total
(i)	Total number of Recommendations	09	
(ii)	Recommendations/Observations which have been accepted by the Government (vide Recommendation at Sl. Nos. 1,2,3,4,5,6,7,8 & 9)	09	100%
(iii)	Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies	Nil	0.00
(iv)	Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee (vide Recommendation at Sl. No. 5)	Nil	0.00
(v)	Recommendations/Observations in respect of which final reply of the Government are still awaited	Nil	0.00